

FILED

UNITED STATES DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 SAN ANTONIO DIVISION

JUN 18 2012
 CLERK, U.S. DISTRICT COURT
 WESTERN DISTRICT OF TEXAS
 BY DEPUTY CLERK

Dwayne L. Wilson)	
)	
Movant)	
)	
v.)	CIVIL NO. SA-12-MC-281-OG
)	
Judge David Klein, Westchester)	
Family Court, White Plains, NY; Supervisor,)	
Westchester County Office of)	
Child Support Enforcement, Mt. Vernon,)	
NY; and Thrift Savings Plan, Fairfax, VA.)	
)	
Respondents)	

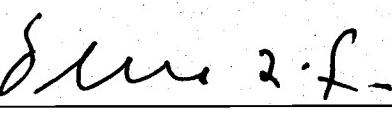
ORDER DENYING MOTIONS FOR STAY OF GARNISHMENT

On or about March 29, 2012, Movant appeared *pro se* and filed a motion for stay, requesting that the New York State Child Support Enforcement Unit be enjoined from garnishing his bank account(s) and/or retirement account(s). (Dkt. # 1). On or about May 29, 2012, Movant filed an amended motion to stay garnishment of all his accounts. (Dkt. # 2). The motion and amended motion are unrelated to any action currently pending before the Court, and movant has never filed a complaint. *See FED.R.CIV.P. 3* ("A civil action is commenced by filing a complaint with the court"). Even assuming that the motion and amended motion could be construed as a complaint, the allegations (at most) give rise to a claim of wrongful garnishment, which is a matter governed by state law. There is nothing in the motions to indicate that the Court would have subject matter jurisdiction over the alleged controversy or personal jurisdiction over the individuals named in the motion. Without jurisdiction, the Court would be unable to grant any relief even if movant had filed a complaint in accordance with the rules. *See FED.R.CIV.P. 12(h)(3)* ("If the court determines at any time that it lacks subject matter jurisdiction, the court

must dismiss the action") (emphasis added). It appears that the New York state court with continuing jurisdiction and authority over the child support/garnishment matter has already made certain rulings, and movant should return to that court to seek further relief, if any.

It is therefore ORDERED that the motion and amended motion for a stay and injunctive relief (Dkt. # 1, 2) are DENIED and this matter is DISMISSED.

SIGNED this 18 day of June, 2012.



ORLANDO L. GARCIA
UNITED STATES DISTRICT JUDGE